



An
Bord
Pleanála

**S. 6(7) of Planning and
Development (Housing) and
Residential Tenancies Act 2016**

**Inspector's Report on
Recommended Opinion
ABP-310571-21**

Strategic Housing Development	120 no. apartments, creche and associated site works.
Location	Lands adjacent to and to the rear of St. Mary's Church, Mill Street, Maynooth, Co. Kildare.
Planning Authority	Kildare County Council
Prospective Applicant	Ladas Property Company Limited
Date of Consultation Meeting	24 th September 2021
Date of Site Inspection	23 rd September 2021
Inspector	Ronan O'Connor

1.0 Introduction

- 1.1. Having regard to the consultation that has taken place in relation to the proposed development and also having regard to the submissions from the planning authority and the documentation received from the prospective applicant, the purpose of this report is to form a recommended opinion as to whether the documentation submitted with the consultation request under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016 - (i) constitutes a reasonable basis for an application under section 4, or (ii) requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

2.0 Site Location and Description

- 2.1.1. The development site is located on Mill Street, in the centre of Maynooth, Co. Kildare. It is situated to the side and rear of St. Mary's Church, which dates to the 19th century and is a protected structure. The church is part of a complex of associated buildings including St. Mary's Parochial Hall and the Divine World Missionaries institutional lands, which lie further to the north along Moyglare Road. Part of the northern site boundary is shared with the Divine Word Missionaries lands. The remainder of the northern site boundary and part of the eastern site boundary, including lands at the bank of the Lyreen River, is shared with the recently permitted SHD development ABP-301230-18 at Mariavilla, which is currently under construction. The Lyreen River runs along the eastern and southern site boundaries. The 2-4 storey Millrace Manor apartment building and car park also adjoin the south western corner of the site, between the site and the Lyreen River. The western site boundary has c. 50m frontage to Mill Street (R148) and faces the Manor Mills Shopping Centre on the opposite side of the street, which has retail and commercial use on the ground floor with up to 5 storeys of residential use above. The Mill Street R148 / Moyglare Road signalised junction is to the immediate west of the site's road frontage. The site location is somewhat elevated relative to the centre of Maynooth and St. Mary's Church is visually prominent. The site is also visible from the Pound Lane Architectural Conservation Area (ACA) and a public open space off Pound Lane on the opposite side of the Lyreen River.

2.1.2. The site itself has a stated area of 1.05 ha. It is undeveloped but has been subject to excavations / quarrying such that ground levels in the eastern part of the site are significantly lower than St. Mary's Church. The western boundary to Mill Street is a low stone wall and there are trees along the northern site boundary.

3.0 Proposed Strategic Housing Development

3.1.1. The proposal will consist of

The development will consist of the provision of a total of 120no. apartments in 4no. separate blocks incorporating provision of a crèche and restaurant/café, 3no. office units and provision of a basement to provide for car parking, bicycle storage and ancillary bin storage areas. Particulars of the development comprise as follows:

(a) Replacement of 2no. existing vehicular entrances onto Mill Street with 1no. single access point onto Mill Street to incorporate either:

(i) Option 1 The proposed vehicular entrance works along with associated pedestrian and cyclist connections onto Mill Street; or

(ii) Option 2 The proposed vehicular entrance works along with associated pedestrian and cyclist connections onto Mill Street and associated works to provide for a bus stop and realignment of existing footpath in accordance with planned part VIII works for this section of Mill Street.

(b) Site excavation works to facilitate the proposed development to include levelling, excavation and general site preparation works.

(c) Block A: A four-storey building comprising a creche (205.55sq,m) and restaurant/café (246.19sq.m) at ground floor level and upper floors incorporating 3no. office units (94.05sq.m), provision of 15no.residential 1bed apartments and 3no. 2bed apartments with associated civic space fronting onto Mill Street and external play area to the rear to serve the creche.

(d) Block B1: An apartment block ranging from three to five storeys comprising a total of 32no.residential apartments to consist of 7no. 3 bed apartments, 19no. 2 bed apartments and 6no. 1 bed apartments.

(e) Block B2: A six storey apartment block comprising a total of 48no. residential apartments to consist of 35no. 2 bed apartments and 13no. 1 bed apartments and associated basement undercroft.

(f) Block C: An apartment block ranging from four to five storeys comprising a total of 22no. residential apartments to consist of 13no. 2 bed apartments and 9no. 1bed apartments along with a ground level storage room for bicycles and bins and associated basement undercroft.

(g) Provision of a basement car parking area to comprise a total of 74no. car parking spaces (incorporating infrastructure for electric vehicle charge points), along with bicycle storage and bin storage areas.

(h) Provision of bicycle and bin storage facilities at surface level.

(i) Provision of internal access roads and footpaths/cycle paths.

(j) Provision of residential communal open space areas (including formal play areas) to include internal walkway along the Lyreen River and pedestrian bridges within the site and including all associated landscape works with public lighting, planting and boundary treatments.

(k) Provision of an ESB substation adjacent to block B1.

(l) Associated site works and attenuation systems to include a hydrocarbon and silt interceptor to facilitate site drainage as well as all ancillary site development/construction works with provision of a foul pump station and internal foul, storm and water networks for connection to the existing foul, storm and public water networks.

The following development parameters are noted:

Parameter	Site Proposal		
Application Site	1.05		
No. of Dwelling Units	120	Other uses	Creche: 205.55 sq. m Restaurant/Café: 246.19 sq. m.
Density	114 unit/ha		

Height	Up to 6 storeys
Car Parking	74 no. spaces
Cycle Parking	255 no. spaces
Access	Via Mill Street
Overall Mix	43 x 1 bed (36%); 70 x 2 bed (58%); 7 x 3 bed (6%)

4.1 National and Regional Policy

- 3.1.2. National policy as expressed within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 supports the delivery of new housing on appropriate sites. I also note the Government’s new Housing for All Plan which identifies the need to increase housing supply as a critical action.

Regional Spatial and Economic Strategy - Eastern and Midland Region 2019

Maynooth is identified as a Key Town, located within the Dublin Metropolitan Area. Key Towns are large economically active service and/or county towns that provide employment for their surrounding areas and with high-quality transport links and the capacity to act as growth drivers to complement the Regional Growth Centres.

They have the capacity and future growth potential to accommodate above average growth in the region with the requisite investment in employment creation, services, amenities and sustainable transport.

Regional policy objectives for Maynooth include:

RPO 4.33: Support the continued development of Maynooth, co-ordinated with the delivery of strategic infrastructure including pedestrian and cycle linkages within the town and to the Royal Canal Greenway, DART expansion and road linkages forming part of the Maynooth Outer Orbital Route in a manner which supports future development and population growth and builds on synergies with Maynooth University promoting a knowledge-based economy.

RPO 4.35: A cross boundary Joint Local Area Plan (LAP) shall be prepared by Kildare County Council and Meath County Council to provide a co-ordinated planning framework for the Maynooth area. The Joint LAP shall identify a boundary for the plan area, strategic housing and employment development areas and infrastructure investment requirements and promote greater co-ordination and sequential delivery of serviced lands for development.

5.4 Metropolitan Area Strategy

Strategic development corridors include the North - West Corridor, (Maynooth / Dunboyne line and DART expansion). The proposed electrification of the main Maynooth line, to be delivered by 2027, will support sequential growth in Leixlip and Maynooth.

Rail Infrastructure

RPO 8.8: The RSES supports delivery of the rail projects set out in Table 8.2, subject to the outcome of appropriate environmental assessment and the planning process, including Dart extension to Maynooth.

Section 28 Ministerial Guidelines

3.1.3. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual').(2009)
- 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (Updated December 2020)
- Urban Development and Building Height, Guidelines for Planning Authorities, 2018.
- 'Design Manual for Urban Roads and Streets' (DMURS) (2019) / DMURS Interim Advice Note – Covid 19 (2020)
- 'The Planning System and Flood Risk Management' including the associated 'Technical Appendices'.
- 'Childcare Facilities – Guidelines for Planning Authorities'.

Kildare County Development Plan 2017-2023

Variation no. 1 was adopted in June 2020 to take account of the provisions of the National Planning Framework and the Regional Spatial and Economic Strategy.

The preferred development strategy includes a focus on achieving critical mass in the Metropolitan Area Strategic Plan (MASP) area and in the Key Towns of Naas and Maynooth. Growth based on NPF and RSES targets is allocated across the county, based on a need for 6,023 additional residential units by 2023.

Maynooth retains its allocation of 10.9% of the county population up to 2023, which will provide an opportunity for the town to absorb recent and pipeline developments. The variation identifies a dwelling target 2020 - 2023 of 657 dwelling units based on a population increase of 1,839 persons.

The Plan acknowledges RPO 4.35 of the RSES which requires the preparation of a Joint LAP for Maynooth with Meath County Council in order to deliver a coordinated planning framework for the town.

Objectives: Settlement Strategy

SO 1: Support the sustainable long-term growth of the Key Towns and the north-east of the county located within MASP and zone additional lands to meet the requirements of the Core Strategy and Settlement Hierarchy.

SO 2: Carry out a strategic Land Use, Employment and Transportation Study of north east Kildare including the Dublin Metropolitan area towns of Leixlip, Maynooth,, having regard to existing and emerging local area plans.

SO 3: Facilitate the implementation of the settlement strategy through the prioritisation of key strategic infrastructure

SO 4: Ensure that the scale and form of developments envisaged within towns and villages is appropriate to their position within the overall Settlement Hierarchy

SO 7: Provide a greater degree of co-ordination between large population centres and corresponding growth in employment, public infrastructure, strategic and local amenities, community facilities, schools, public transport etc. through a plan-led approach.

SO 9: Sequentially develop lands within towns and villages in accordance with the Development Plan Guidelines, DEHLG (2007) including any updated guidelines and deliver at least 30% of all new homes that are targeted in settlements within their existing built-up footprint (defined by the CSO).

Section 4.5 deals with Location and Density Policy

LD 1 Promote residential densities appropriate to its location and surrounding context.

LDO 1 Ensure that the density of residential development maximises the value of existing and planned physical and social infrastructure and makes efficient use of zoned lands

LDO 3 Require higher residential densities at appropriate locations as set out in the Guidelines for Sustainable Residential Development in Urban Areas.

Table 4.2 identifies appropriate densities of 30-50 units per ha on Outer Suburban or 'Greenfield' sites.

Policy MD 1 Ensure that a wide variety of adaptable housing types, sizes and tenures are provided in the county in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual to support a variety of household types.

Chapter 17 sets out development management standards. In greenfield sites, the minimum area of open space that is acceptable within the site is 15% of the total site area. Residential car parking is required on the basis of 2 spaces per house and 1.5 spaces per Apartment unit + 1 visitor space per 4 apartments. Cycle parking is required on the basis of 1 space per apartment plus on visitor space per two units.

Table 6.1 identifies priority road and bridge projects including, Maynooth Outer Orbital Relief Road, Maynooth LAP roads objective TR02(b) L1012 Moyglare Road and Dunboyne Road (Co. Meath).

Table 6.2 lists regional roads identified for improvement, including the R157 from the R148 junction at Maynooth to the Co. Meath boundary.

Maynooth Local Area Plan 2013-2019 (Incorporating Amendment No. 1 as adopted 9th October 2018)

The site is zoned under objective A1 'Town Centre' with the following stated objective:

To provide for the development and improvement of appropriate town centre uses including retail, commercial, office, residential, amenity and civic use. The purpose of this zone is to protect and enhance the special character of Maynooth town centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of a developing town. It will be an objective of the Council to encourage the full use of buildings, backlands and especially upper floors. Warehousing and other industrial uses will not be permitted in the town centre.

LAP policy HP1 is to facilitate sustainable development of the town that reflects its character. Policy HP2 is that density and design of development respects the character of the existing and historic town in terms of structure, pattern, scale, design and materials with adequate provision of open space. Policy HP5 is to require applications for residential development of more than 20 units to demonstrate an appropriate mix of types having regard to the existing housing stock and social mix in the area; the desirability of providing mixed communities; the provision of a range of housing types and tenures; the need to provide a choice of housing types and tenures; the need to provide a choice of housing for all age groups and people at different stages of the life cycle; and the need to provide for special needs groups. Policy HP6 is to restrict apartment developments generally to the University campus and town centre locations or suitably located sites adjoining public transport connections. Apartments will not be permitted where there is an over concentration of this type of development. Higher density schemes will only be considered where they exhibit a high architectural design standard creating an attractive and sustainable living environment. Section 7.5.4 states that the council will seek pedestrian and cycle linkages in new developments. Policy FRA 8 is to create buffer zones between all watercourses and new development. Those along the Lyreen River shall not be less than 10m wide.

4.0 Planning History

ABP-306068-19

4.1.1. SHD application at the subject site. Permission was sought for 120 no. apartments, a creche and all associated site works. The Board **refused** permission for the following reasons:

1. Having regard to Figure 7.5 of the Site Specific Flood Risk Assessment submitted with the application and to the projected extent of additional flooding at the Millrace Manor Apartments as a result of the proposed development, the Board does not consider that the proposal has been subject to an appropriate flood risk assessment that would satisfy criterion number 2 of the Justification Test for development management set out in Section 5.15 of the Guidelines for Planning Authorities on the Planning System and Flood Risk Management issued by the Minister in November 2009. A grant of permission would therefore be contrary to those guidelines.
2. The Board is not satisfied, on the basis of the information provided with the application, including the Natura Impact Statement, that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European site Rye Water Valley/Carton Special Areas of Conservation (Site No. 001398), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission

ABP-301775-18

SHD application at the subject site. Permission was sought for a mixed use development of 135 no. apartments in 3 no. blocks, crèche (259.17 sq.m.) and restaurant/café (218.59 sq.m.), 190 basement car parking spaces, 370 bicycle storage spaces, refuge storage areas at basement level, provision of open space areas and all associated site works. The Board **refused** permission for the following reasons:

1. The proposed development, by reason of its design, scale and bulk, in close proximity to St Mary's Church, which is a protected structure, would materially and detrimentally affect the setting of this protected structure and would diminish

the level of light reaching the stained glass windows on the eastern and southern elevations of the Church, thereby detracting from its artistic, historic and architectural interest, and would injure its setting. The proposed development would, therefore, materially contravene the policies and objectives of the Maynooth Local Area Plan 2013 – 2019 (in particular policy HP2) and the Kildare County Development Plan 2017 – 2023 (in particular policies DL1, PS2 and PS3), and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by reason of its bulk, design and location, would significantly detract from the character and amenities of the town of Maynooth, and in particular from the amenities of the lands along the Lyreen River and the open space at Pound Lane, due to the aspect that it would present towards the river which would be dominated by a high wall over which the proposed apartment buildings would appear as structures of substantial mass and extent. The proposed development would, therefore, be visually obtrusive, would fail to enhance the visual corridor of the Lyreen River and would be contrary to the proper planning and sustainable development of the area.
3. It is considered that the proposed development would not integrate with existing and authorised development in the vicinity nor provide adequate pedestrian and cyclist permeability, in order to encourage suitable facilities for travel by sustainable modes, in accordance with national policy. In particular:
 - The proposed development would fail to provide convenient and attractive routes for pedestrians and cyclists from the adjoining lands through the site towards the town centre, either along the river or otherwise.
 - The design of the access to the proposed development has not been co-ordinated with approved works to improve cycling and pedestrian facilities along Mill Street.
 - The proposed amount of car parking is considered to be excessive and has not been significantly reduced to reflect the town centre location of the site in accordance with the advice given at section 4.19 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for

Planning Authorities, issued by the Department of Housing, Planning and Local Government in March 2018.

Furthermore, the Board is not satisfied that the trip generation from the proposed development has been adequately modelled or justified so as to demonstrate that the proposed development would not have a significantly negative impact on traffic flows at this location between two heavily congested traffic junctions.

The proposed development would, therefore, be contrary to these Ministerial Guidelines, would endanger public safety by reason of traffic hazard and obstruction of road users (including vulnerable road users such as pedestrians and cyclists), and would be contrary to the proper planning and sustainable development of the area.

4. The proposed development would fail to provide an acceptable standard of amenity for its future occupants in accordance with the provisions of the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, issued by the Department of Housing, Planning and Local Government in March 2018, and the policies and objectives of the Kildare County Development Plan 2017-2023 and the Maynooth Local Area Plan 2013-2019 because:
 - It would contain a number of single aspect apartments whose orientation would be predominantly towards the north and which would be in close proximity to the site boundary and would not overlook any significant amenity, contrary to section 3.18 of the Ministerial Guidelines.
 - The amenity provided by the proposed central open space would be compromised by the width and extent of the vehicular route that would be run through it.
 - The amenity provided by the open space along the river would be compromised by its narrow width, which would contravene policy FRA 8 of the Maynooth Local Area Plan, by the high wall alongside it, and by the failure to provide convenient and attractive access at either end of it.

The proposed development would therefore be contrary to the above-mentioned plans and Ministerial Guidelines issued to planning authorities under section 28

of the Planning and Development Act, 2000, as amended, and would be contrary to the proper planning and sustainable development of the area.

5. Having regard to the use of a bespoke river flood model rather than the Catchment-based Flood Risk Assessment and Management (CFRAM) model prepared by the Office of Public Works in the Site Specific Flood Risk Assessment submitted with the application, to the preliminary nature of the submitted drainage designs and to the failure to address flood risks resulting from the proposed development, it is considered that it has not been demonstrated to the satisfaction of the Board that the proposed development would not pose an increased flood risk to third party properties and lands arising from the loss of floodplain storage. Accordingly, it is considered that the proposal has not been subject to an appropriate flood risk assessment that would satisfy criterion number 2 of the Justification Test for development management set out in section 5.15 of the Guidelines for Planning Authorities on the Planning System and Flood Risk Management issued by the Department of the Environment, Heritage and Local Government issued in November 2009. The proposed development would, therefore, be contrary to these Ministerial Guidelines and would be contrary to the proper planning and sustainable development of the area.

5.0 **Section 247 Consultation(s) with Planning Authority**

- 5.1. A section 247 pre-application consultation took place with Kildare County Council on 05/05/2021 and details of same are set out in Appendix A of the Planning Authority's submission on this pre-application.

6.0 **Irish Water Submission**

- 6.1. Irish Water assessed and issued the applicant a Confirmation of Feasibility for connection(s) to the Irish Water network(s) in 2017. Given the time that has elapsed since then, and high levels of demand in the area, Irish Water cannot confirm feasibility of connection(s) until such time as the applicant submits a new pre connection enquiry to Irish Water to adequately assess current feasibility of connection(s) to facilitate this development. The applicant **must** achieve a current

confirmation of feasibility of connections from Irish Water ahead of any SHD application.

7.0 **Forming of the Opinion**

7.1. Pursuant to section 6(7) of the Act of 2016, regard is had in the forming of the opinion to the documentation submitted by the prospective applicant; the planning authority submissions and the discussions which took place during the tripartite consultation meeting. I shall provide brief detail on each of these elements below.

7.2. **Documentation Submitted**

7.2.1. The prospective applicant has submitted information pursuant to section 5(5)(a) of the Planning & Development (Housing) and Residential Tenancies Act 2016 and Article 285 of the Planning and Development (Strategic Housing Development) Regulations 2017 and I have had regard to same.

7.3. **Planning Authority Submission**

7.3.1. In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Kildare County Council have submitted a copy of the record of their section 247 consultations with the prospective applicant and their opinion in relation to the proposal.

7.3.2. Kildare County Council has also submitted a report on this pre-application submission which raises the following matters:

General

- Note the changes to the project since the most recent refusal including the incorporation of undercrofts/louvres, revised site services proposals and design amendments to proposed entrance onto Mill Street.

Principle

- Development does not provide for an adequate mix of uses to reflect the town centre zoning

Design

- Revised materials to Block A are considered more appropriate to what was previously proposed.

- Proposed heights and density are considered appropriate

Transport

- Option 2 entrance takes into consideration the Part 8 along Mill Street
- Walkway is a positive aspect to the development/contribution will be required towards the provision of a pedestrian bridge to link the walkway to Pound Park
- Noted no vehicular connections between both housing areas are being proposed
- Open space and setback from river are satisfactory/details of safety railings (if proposed) are required
- Parking provision is satisfactory
- Site layout with the bus stop is preferable/ties in with Part 8/could be improved with the addition of more planting and seating/development does not provide for a full active frontage along Mill Street

Flood Risk

- See internal report summary below.

Other Issues:

- AA - Not satisfied that the relationship between the proposed flood mitigation measures and the consequent impacts downstream of the Lyreen River have been fully addressed in the NIS/concerns that the proposed development has the potential to impact on the conservation objectives of the Rye Water Valley/Carlton SAC/Further consideration of these potential impacts is required.
- Separation Distance – Separation distance between Block B1 and B2 is unsatisfactory

Internal Reports

Roads and Transportation Department

- Applicant to submit road design drawings indicating road, footpath, cycle path widths and car parking dimensions throughout the development.
- Applicant to submit detail of access into Cairn Homes Development and the Royal Canal.

- Applicant to provide a cross section drawings showing proposed footpath and cycle path KCC objective PC04(a) along the Lyreen river.
- A preliminary public lighting design to be submitted including lighting for proposed footpath and cycle path KCC objective PC04(a) along the Lyreen River.
- Applicant to provide loading bays for each residential block and commercial building.
- Applicant is required to reallocate the proposed number of car parking spaces (15) for office and commercial (café/restaurant) development to apartment and loading bay use.
- Applicant to resubmit basement drawing indicating a revised layout of this parking provision. All car parking spaces to be 2.5x5.0m in dimension, Applicant to confirm dimensions on drawing.

Housing Department:

- The Part V proposal of 12 no. units as proposed is satisfactory.

Water Services:

- The prospective applicant should consult the KCC Fire Service and WSD to ascertain their requirements and available pressures and flows in the public mains, respectively prior to submitting the full planning application.
- A risk assessment of all surface water storage areas and provision of access to the Lyreen river and the associated public health & safety risk of drowning especially of young children should be undertaken prior to finalising the detailed scheme design with appropriate risk mitigation measures as may be deemed necessary.
- Groundwater monitoring should last at least 6 months and include at least one winter season. Therefore, it is recommended that the prospective applicant shall immediately commence a regular on-site groundwater monitoring programme to accurately determine the prevailing groundwater regime and finalise the SuDS strategy before submitting a planning application.
- Where underground attenuation storage is retained, in whole or in part, potential discharge water quality issues from the concrete attenuation storage tank shall

be addressed given the environmentally sensitive nature of the Lyreen river which is a tributary of the Rye Water river which contains an SAC. (All internal faces of attenuation storage tank to be lined with a SiKA Alastic Liquid applied bitumen water proofing membrane).

- The drainage design shall include appropriate information including drainage layout drawings, design calculations and details including for basement surface water pump station contained in any planning application submission that may be made. The drainage design shall consider the separation of the management company controlled area and taking in charge areas into distinct, independent drainage networks.
- Water Services department are not satisfied that the site layout and the proposed undercroft flood storage with drain down pumps to the Lyreen river adequately mitigates flood risk to an acceptable level. Consideration to an alternative to the undercroft system should be explored, subject to acceptable hydraulic modelling.

Environment Section

- No objection in principle.
- Additional information required for Stage 3
- Brief outline of the proposed waste management strategy, including calculations of the waste management requirements of the occupants.
- Clear details of the proposed waste storage facilities for the apartment block, including plans and elevations, and
- Details of how it is proposed to secure the waste management facilities against fly-tipping and vermin.
- Suitability for access by residents and collection by refuse collectors.

Chief Fire Officer

- No objections to the planning application subject to conditions in relation to fire safety.

Parks Section

- No objection in principle. Applicant to submit further details regarding the proposed landscaping and impact on trees.

7.3.3. I have reviewed and considered all of the documentation submitted by the planning authority relating to this case.

7.4. **Consultation Meeting**

7.4.1. A Section 5 Consultation meeting took place via Microsoft Teams on the 24th September 2021. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics raised for discussion at the tripartite meeting were based on the agenda that issued in advance and contained the following issues:

1. Previous Reason for Refusal No. 1 – Flood Risk
2. Previous Reason for Refusal No. 2 – Appropriate Assessment
3. Planning Authority's submission including mix of uses, proposed materials, and separation distances
4. Transportation/Permeability/Public Realm
5. Daylight/Sunlight (proposed development)
6. Site Services (where not discussed under Item 1)/Irish Water Submission
7. Any Other Matters

7.4.2. Both the prospective applicant and the planning authority were given an opportunity to comment and respond to the issues raised by the representatives of ABP. Those comments and responses are recorded in the 'Record of Meeting 310571-21' which is on file.

7.4.3. I have fully considered the responses and comments of the prospective applicant and planning authority in preparing the Recommended Opinion hereunder.

7.5. **Conclusion**

7.5.1. Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

- 7.5.2. I have examined all of the submissions before me including the documentation submitted by the prospective applicants, the submissions of the planning authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, including section 28 Ministerial Guidelines and local policy via the statutory plans for the area.
- 7.5.3. Having regard to the above, I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act constitutes a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 7.5.4. I would also recommend that the prospective information applicant be notified, pursuant to article 285(5)(b) of the 2017 Regulations, that specified information (as outlined hereunder) be submitted with any application for permission that may follow. I believe the specified information will assist the Board at application stage in its decision-making process. I am also recommending that a number of prescribed bodies (as listed hereunder) be notified by the prospective applicant of the making of the application.

8.0 Recommended Opinion

The Board refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request

- (i) constitute a reasonable basis for an application under section 4 of the Act, or
- (ii) Require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, **An Bord Pleanála is of the opinion that the documentation submitted would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.**

Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission arising from this notification:

1. A revised Site Specific Flood Risk Assessment that comprehensively addresses the previous reason for refusal (ABP Ref 306068-19), as relates to flood risk, and the issues raised in the submission from Kildare County Council (dated 19/07/2021) including the issues raised in the associated internal report from the Water Services Division (dated 02/07/2021) including, but not limited to, the concerns raised in relation to the proposed undercroft flood storage proposals.
2. An AA Screening Statement, and where appropriate, a Natura Impact Statement, that comprehensively addresses the previous reason for refusal (ABP Ref 306068-19) as relates to Appropriate Assessment, and which addresses the issues raised in the submission from Kildare County Council (dated 19/07/2021), including the issues raised in the associated internal report from the Water Services Division (dated 02/07/2021).
3. A Sunlight/Daylight/Overshadowing analysis showing an acceptable level of residential amenity for future occupiers and existing residents, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. This report should address the full extent of requirements of BRE209/BS2011, as applicable.
4. It should be demonstrated that proposals for the public realm have had sufficient regard to relevant Part 8 proposals. In addition, matters raised in at the Tri-Partite Meeting and as set out in the Planning Authority's submission on this proposal, including that as set out within the report of the Roads, Transportation and Public Safety Department (dated 30/06/2021) should be addressed in any application.
5. A Housing Quality Assessment (HQA) and Design Statement which provides the specific information regarding the proposed apartments as required by the Sustainable Urban Housing: Design Standards for New Apartments Guidelines

for Planning Authorities (December, 2020). The documentation should also demonstrate how the proposed apartments comply with the various requirements of those guidelines, including its specific planning policy requirements.

6. A report that specifically addresses the proposed materials and finishes to the scheme including specific detailing of external finishes, the treatment of balconies and boundary treatments. Particular regard should be had to the requirement to provide high quality and durable finishes and materials which have regard to the surrounding context of the site.
7. Drainage details, including layouts, relevant consents and reports, such as would clearly address and respond to comments within the internal report from Water Services (dated 02/07/2021), and having regard to the submission from Irish Water (dated 22/07/2021).
8. Landscaping Proposals, including a report that provides appropriate rationale and details, and addresses the comments contained within the Planning Authority's submission on this pre-application (dated 19/07/2021), including those comments within the internal report from the Parks Section of Kildare County Council.
9. All supporting technical/environmental reports to be updated as required.
10. A plan of the proposed open spaces within the site clearly delineating public, communal and private spaces.
11. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority.
12. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective(s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format. The notice and statement should clearly indicate which Planning Authority statutory plan it is proposed to materially contravene.

13. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018, unless it is proposed to submit an EIAR at application stage.

Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

1. Irish Water
2. IFI
3. Transport Infrastructure Ireland
4. An Taisce
5. The Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs,
6. Waterways Ireland
7. The Heritage Council
8. Kildare County Childcare Committee

PLEASE NOTE:

Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Rónán O'Connor
Senior Planning Inspector

Date: 25th November 2021